

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GREGORY HARDY,

Plaintiff,

v.

DEPUTY WHITAKER, *et al.*,

Defendants.

Case No. 24-cv-11270

Honorable Thomas L. Ludington

Magistrate Judge Elizabeth A. Stafford

**ORDER GRANTING DEFENDANTS' MOTION TO STRIKE (ECF NO. 36)
AND STRIKING PLAINTIFF'S SECOND AMENDED COMPLAINTS
(ECF NOS. 34, 39)**

Plaintiff Gregory Hardy amended his complaint as a matter of course on August 7, 2024. ECF No. 13. Hardy later filed a second amended complaint without first seeking leave to amend. ECF No. 34. Defendants Genesee County Sheriff's Office, Sergeant Lipset, Lieutenant Wallenman, and Deputy Whitaker move to strike that second amended complaint as improperly filed. ECF No. 36. Hardy then filed another amended complaint without seeking leave to amend. ECF No. 39.

The Honorable Thomas L. Ludington referred the matter to the undersigned for all pretrial matters under 28 U.S.C. § 636(b)(1). ECF No.

10. The Court **GRANTS** defendants' motion (ECF No. 36) and **STRIKES** Hardy's unauthorized amended complaints (ECF No. 34 and ECF No. 39).

Federal Rule of Civil Procedure 15(a)(1) permits a plaintiff to amend a complaint "once as a matter of course within 21 days after serving it." Rule 15(a)(1) (cleaned up). But Hardy already filed an amended complaint. ECF No. 13. He did not have a right under Rule 15(a)(1) to file a second amended complaint. *See Synthes USA Sales, Inc. v. Taylor*, No. 3:10-1102, 2012 WL 928190, at *1 (M.D. Tenn. Mar. 19, 2012) (stating that the Rule 15(a)(2) "right to amend once as of right applies only to initial, not amended pleadings" as allowing only one amendment of right). Nor has Hardy moved for leave to amend his complaint under Rule 15(a)(2).¹

Thus, Hardy's amended complaints are unauthorized filings that must be stricken. If Hardy wishes to amend his complaint again, he must move for leave to amend under Rule 15(a)(2) and Local Rule 15.1.

s/Elizabeth A. Stafford
ELIZABETH A. STAFFORD
United States Magistrate Judge

Dated: October 17, 2024

¹ Hardy claims that he requested leave to amend on August 7, 2024. ECF No. 38, PageID.222. On that date, Hardy filed his first amended complaint under Rule 15(a)(1) and a request for more time to serve the Flint Police Department. ECF No. 12; ECF No. 13. He has not sought leave to file a second amended complaint.

NOTICE TO PARTIES ABOUT OBJECTIONS

Within 14 days of being served with this order, any party may file objections with the assigned district judge. Fed. R. Civ. P. 72(a). The district judge may sustain an objection only if the order is clearly erroneous or contrary to law. 28 U.S.C. § 636. **“When an objection is filed to a magistrate judge’s ruling on a non-dispositive motion, the ruling remains in full force and effect unless and until it is stayed by the magistrate judge or a district judge.”** E.D. Mich. LR 72.2.

CERTIFICATE OF SERVICE

The undersigned certifies that this document was served on counsel of record and any unrepresented parties via the Court’s ECF System to their email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on October 17, 2024.

S/Davon Allen
Davon Allen
Case Manager